

AMENDED IN ASSEMBLY MAY 27, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 446**

**Introduced by Assembly Member Pacheco**

February 24, 1997

---

An act to amend Section 190 of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 446, as amended, Pacheco. Murder: punishment.

Existing law, amended by initiative statute, provides that any person guilty of murder in the 2nd degree shall suffer confinement in the state prison for a term of 25 years to life if the victim was a peace officer who was killed while engaged in the performance of his or her duties, and the defendant knew, or reasonably should have known, that the victim was such a peace officer engaged in the performance of his or her duties.

This bill would increase this term of punishment to confinement in the state prison for life without possibility of parole.

*This bill would incorporate additional amendments to Section 190 of the Penal Code proposed by Chapter 598 of the Statutes of 1996 but not yet approved by the voters, to be operative if that chapter is approved by the voters at a statewide special election held in 1997 or no such election is held in 1997.*

This bill would provide that it shall become effective only when submitted to, and approved by, the voters.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. *Section 190 of the Penal Code, as*  
2 *amended by Chapter 598 of the Statutes of 1996, is*  
3 *amended to read:*

4 190. (a) Every person guilty of murder in the first  
5 degree shall suffer death, confinement in the state prison  
6 for life without the possibility of parole, or confinement  
7 in the state prison for a term of 25 years to life. The  
8 penalty to be applied shall be determined as provided in  
9 Sections 190.1, 190.2, 190.3, 190.4, and 190.5.

10 Except as provided in subdivision (b) or (c), every  
11 person guilty of murder in the second degree shall suffer  
12 confinement in the state prison for a term of 15 years to  
13 life.

14 (b) Every person guilty of murder in the second  
15 degree shall suffer confinement in the state prison for a  
16 ~~term of 25 years to life~~ *without possibility of parole* if the  
17 victim was a peace officer, as defined in subdivision (a)  
18 of Section 830.1, subdivision (a) or (b) of Section 830.2, or  
19 Section 830.5, who was killed while engaged in the  
20 performance of his or her duties, and the defendant  
21 knew, or reasonably should have known, that the victim  
22 was such a peace officer engaged in the performance of  
23 his or her duties.

24 (c) Every person guilty of murder in the second  
25 degree shall suffer confinement in the state prison for a  
26 term of 20 years to life if the killing was perpetrated by  
27 means of shooting a firearm from a motor vehicle,  
28 intentionally at another person outside of the vehicle with  
29 the intent to inflict great bodily injury.

30 (d) Article 2.5 (commencing with Section 2930) of  
31 Chapter 7 of Title 1 of Part 3 shall not apply to reduce any  
32 minimum term of a sentence imposed pursuant to this  
33 section. A person sentenced pursuant to this section shall



1 not be released on parole prior to serving the minimum  
2 term of confinement prescribed by this section.

3 *SEC. 2. Section 190 of the Penal Code, as amended by*  
4 *Proposition 179 at the June 7, 1994, statewide primary*  
5 *election, is amended to read:*

6 190. (a) Every person guilty of murder in the first  
7 degree shall suffer death, confinement in the state prison  
8 for life without the possibility of parole, or confinement  
9 in the state prison for a term of 25 years to life. The  
10 penalty to be applied shall be determined as provided in  
11 Sections 190.1, 190.2, 190.3, 190.4, and 190.5.

12 Except as provided in subdivision (b) or (c), every  
13 person guilty of murder in the second degree shall suffer  
14 confinement in the state prison for a term of 15 years to  
15 life.

16 Except as provided in subdivision (b), Article 2.5  
17 (commencing with Section 2930) of Chapter 7 of Title 1  
18 of Part 3 shall apply to reduce any minimum term of 15,  
19 20, or 25 years in the state prison imposed pursuant to this  
20 section, but the person shall not otherwise be released on  
21 parole prior to that time.

22 (b) Every person guilty of murder in the second  
23 degree shall suffer confinement in the state prison for life  
24 without possibility of parole if the victim was a peace  
25 officer, as defined in subdivision (a) of Section 830.1,  
26 subdivision (a) or (b) of Section 830.2, or Section 830.5,  
27 who was killed while engaged in the performance of his  
28 or her duties, and the defendant knew, or reasonably  
29 should have known, that the victim was such a peace  
30 officer engaged in the performance of his or her duties.

31 (c) Every person guilty of murder in the second  
32 degree shall suffer confinement in the state prison for a  
33 term of 20 years to life if the killing was perpetrated by  
34 means of shooting a firearm from a motor vehicle,  
35 intentionally at another person outside of the vehicle with  
36 the intent to inflict great bodily injury.

37 Article 2.5 (commencing with Section 2930) of Chapter  
38 7 of Title 1 of Part 3 shall apply to reduce any minimum  
39 term of 20 years in the state prison when the person is  
40 guilty of murder in the second degree and is subject to

1 this subdivision, but the person shall not otherwise be  
2 released on parole prior to that time.

3 ~~SEC. 2.~~

4 *SEC. 3. (a) Section 1 of this act shall become*  
5 *operative if either (1) no statewide special election is held*  
6 *in 1997 or (2) a statewide special election is held in 1997*  
7 *and Section 190 of the Penal Code, as amended by*  
8 *Chapter 598 of the Statutes of 1996, is approved by the*  
9 *voters at that election, in which case Section 2 of this act*  
10 *shall not become operative and shall not be submitted to*  
11 *the voters and Section 190 of the Penal Code, as amended*  
12 *by Chapter 598 of the Statutes of 1996, shall not be*  
13 *submitted to the voters at any subsequent statewide*  
14 *election.*

15 *(b) Section 2 of this act shall become operative only if*  
16 *Section 190 of the Penal Code, as amended by Chapter*  
17 *598 of the Statutes of 1996, is rejected by the voters at a*  
18 *statewide special election held in 1997, in which case*  
19 *Section 1 of this act shall not become operative and shall*  
20 *not be submitted to the voters.*

21 *SEC. 4. This act affects an initiative statute and shall*  
22 *become effective only when submitted to, and approved*  
23 *by, the voters pursuant to subdivision (c) of Section 10 of*  
24 *Article II of the California Constitution and in accordance*  
25 *with the provisions of Section 3 of this act.*

